



APPENDIX.**Excerpts from Regulations 42.**

(Revised October, 1932.)

Art. 26. *Basis of tax.*—The term “all transportation of crude petroleum and liquid products thereof by pipe line” includes any such transportation by a carrier, either public or private, whether or not transported for hire, and whether or not the commodity transported is owned by the carrier. It also includes the transportation by private owner whenever the movement is substantially similar to movements which pipe line carriers usually undertake and perform, if the movement is not merely local or incidental to another business or a related business engaged in by the person so transporting, such as the producing or refining of oil. Thus, where a refiner maintains a trunk line or a gathering line from a refinery to an oil field or pool, the services which the refiner performs for himself are similar to those which pipe line carriers would otherwise render. The refiner, therefore, should pay the tax as though he had in fact employed the services of a carrier. If, on the other hand, the movement is from storage tanks to stills which are a part of the same manufacturing unit, or from wells to flow tanks or storage tanks situated in the immediate vicinity, the movement is not such as a pipe line carrier would normally render and consequently is not subject to the tax imposed under Section 731. The movement by pipe line from lease storage tanks to storage tanks such as are usually maintained in the immediate vicinity of a refinery, railroad siding, or boat wharf, is taxable.

The gathering service rendered in movements from lease storage tanks to storage tanks or receiving stations at the end of a stem or gathering line is subject to tax.

The transportation service rendered in movements from the end of the stem or gathering lines through a main or trunk line to a point of delivery is subject to tax.

Delivery service such as loading into tank cars or tank vessels by means of loading racks is subject to tax when rendered as a continuation or part of a prior taxable service.

Art. 27. *Rate and computation of tax.*—Where a “fair charge” for the transportation is collected, the tax attaches at the rate of 4 per cent of such charge. In case no charge for the transportation is made by reason of the ownership of the commodity transported or otherwise, or if in a transaction not at arm’s length a charge less than a fair charge is made for the services rendered, the tax will attach at the rate of 4 per cent of a fair charge for such services, as determined by the Commissioner.

Fair Charge.

Section 731(b) of the Revenue Act of 1932

(b) For the purposes of this section, the fair charge for transportation shall be computed—

- (1) from actual bona fide rates or tariffs, or
- (2) if no such rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or
- (3) if no such rates or tariffs exist, then on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

Art. 28. *Fair charge.*—If a pipe line carrier having published tariffs and engaged in the bona fide transportation of crude petroleum and liquid products thereof for hire makes no charge or (in the case of a transaction not at arm’s length) less than a fair charge for moving such commodities accepted by it for transportation, the tax is to be computed upon a fair charge which would be paid under the carrier’s tariffs for performing such service for hire.

Where no tariffs have been published, the fair charge will be determined on the basis of the ordinary or customary charge for like or similar services performed in the same field or area. If no reasonable basis of comparison can be found, a full statement of the facts surrounding the particular movement must be submitted to the Commissioner for his guidance and assistance in determining a fair charge. Such a statement should contain figures show-

ing the original investment in the pipe line system, additions and betterments, depreciation, obsolescence, sinking funds and reserves, present worth, operating expenses during the taxable period, fair income return, and other information which may be of value, including an estimate as to the probable life of the field and of the pipe line.

From information available the Commissioner will determine what constitutes a fair charge for the purpose of this tax in respect of the particular movement under consideration.